

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

January 19, 1920

To Guy H. Sturgis, Attorney General, from his Deputy.  
Re: Title to Bath Ferry Property

You ask for the legal basis of my suggestion that the State exercise the right of eminent domain for the purpose of acquiring extra facilities in connection with the Peoples Ferry at Bath.

It seems to me that this right could be properly exercised for two reasons. In the first place, the Peoples Ferry Company itself under the provisions of Section 5 of Chapter 153 of the Private and Special Laws of 1872 was given the right of eminent domain and under the act of 1919, the "franchises" of the Peoples Ferry Company are to be taken over by the State. Does it not seem to you that this would include the exercise of the right of eminent domain?

In the second place, it would seem as if the machinery afforded for condemning land for highway purposes was applicable. In Warner vs. Ford Lumber & Mfg. Co., 123 Ky. 103, 12 L. R. A. New Series, 667, it is said that a ferry has been aptly called a public highway across a stream of water by boat instead of by bridge. In Reid vs. Lincoln County, 46 Mont. 31, 125 Pac. 429, it was held that a county might establish a ferry without any specific statutory authority under the power given to create a highway system, a ferry being a mere incident or movable portion of a highway where it crosses a stream. In State vs. Wiehaupt, 231 Mo. 449, 133 S. W. 329, it was said that a ferry in its general sense was a highway over narrow waters and a continuance of a highway from one side of the water over which it passes to the other. These few cases I have taken from the last edition of Words and Phrases and I think others of the same general character could be added to the list.

Fred F. Lawrence  
Deputy Attorney General